

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1, 4-5, 8, 21, 23-25 and 32-40 are pending in the application. Claims 1, 21 have been amended to better define the claimed subject matter. The amended claims find support in the original specification and drawings, e.g., 10A-10B, and the corresponding text in the specification. No new matter has been introduced through the foregoing amendments.

Claims 1, 4-5, 8, 21 and 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

First, it is noted that the cited claim feature by the Examiner at paragraph 6 of the Office Action is not recited in independent claim 21 which finds support by the present application.

Second, Applicants respectfully submit that the claimed features in independent claim 1 are supported at least by the drawings of the present application. Specifically, as the embodiments disclosed in Figs. 5-9, an area of the non-engaging portion 7a that faces and is directly contactable with the hook member 6 of the fixing tape 4 being folded along the outermost lateral edge of the respective side flap 3 is larger than that of the engaging portion 7b.

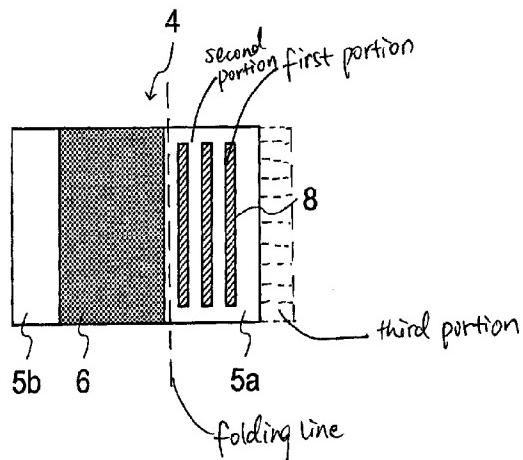
Since the claimed feature finds support in the drawings, Applicants respectfully submit that the rejection is improper and should be withdrawn. If the Examiner intended to object to the specification rather than to reject the claims under 35 U.S.C. 112, first paragraph, the specification has been amended herein to describe the relationship between non-engaging portion 7a and engaging portion 7b.

Accordingly, for the reasons discussed above, withdrawal of the rejection is respectively requested.

Claims 35-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully submit that the claimed feature find supports at Figs. 5-9 of the present application. As the embodiments illustrated in Figs. 5-9, a first portion of the inner surface of the respective side flap 3, as one of the engaging region for temporarily fixed thereto, is exposed through said slit 8 and is directly mechanically, non-adhesively, releasably engaged with said hook member 6 to temporarily fix the folded fixing tape 4 to the inner surface of said side flap. Further, a second portion of said fixing tape substrate 5 is directly contactable with said hook member of the folded fixing tape. A third portion of the inner surface of each said side flap 3 outside the slit 8 and outside a boundary of the attaching portion 5a of the respective fixing tape 4.

Further, as illustrated by the annotated Fig. 10A of the present application below, the fixing tape 4 can be folded along the folding line (Fig. 7) so that the hook 6 will attach to both the attaching portion 5a of the fixing tape 4 and to a third portion (see, Fig. 10A below) of the side flap 3. It is clear that the third portion is outside the slit 8 (the first portion) and also outside the boundary of the attaching portion 5a.

Fig. 10 A



Therefore, this rejection should be withdrawn.

Claims 1, 4-5, 8, 21, 23-25 and 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Fries* (CA 2143791) in view of *Jingu* (JP 2002-000648) and further in view of *Tanzer* (US 6,730,069).

Applicants respectfully traverse this rejection for at least the reasons discussed in the previous Amendment of December 5, 2008 with respect to the “non-engaging portion” feature in claims 1 and 21.

Also, even if the hooks 21 of *Jingu* were folded, the hooks 21 must fall within the region 29 on the inner surface of the diaper (see, Fig. 1 of *Jingu*) or attached to a region opposite to the engaging portion 23 of the outer surface of the diaper, and cannot to form both the engaging portion and the non-engaging portion as claimed.

Further, Applicants respectfully submit that none of the applied art disclose or suggest the claimed feature, i.e., “said fixing tape is provided with a rectangular slit (or slit) in said attaching portion”, as recited in claims 1 and 21. In particular, as illustrated in Fig. 5 of *Tanzer*, *Tanzer* discloses circular “openings” 80 rather than a rectangular slit (or slit) as claimed. The other applied references singly or in combination do not fairly disclose or suggest the claimed slit.

Accordingly, for the reasons discussed above, claims 1 and 21 should be patentable over the art and this rejection should be withdrawn.

Independent claim 32 should be patentable over the art as applied in the Office Action for at least the reasons detailed previously with respect to the “opening” feature.

The dependent claims are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

Conclusion

Each of the Examiner's rejections has been overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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